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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

OCT 20 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
)  
Eligibility for the Specialized )  
Mobile Radio Services )  
and Radio Services in the )  
220-222 MHz Land Mobile Band )  
and Use of Radio Dispatch )  
Communications )

GN Docket No. 94-90

To: The Commission

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REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

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Date: October 20, 1994

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**REPLY COMMENTS OF NEXTEL COMMUNICATIONS, INC.**

**I.  
INTRODUCTION**

Pursuant to Rule 1.415 of the Rules of the Federal Communications Commission ("Commission"), Nextel Communications, Inc. ("Nextel") files Reply Comments in the above-referenced docket. Nextel filed Comments herein on October 5, 1994.

In its Notice of Proposed Rule Making ("NPRM"), the Commission queried whether it should permit wireline entry into the Specialized Mobile Radio ("SMR") industry and whether common carriers should be allowed to provide dispatch services.<sup>1/</sup> In the comments filed herein, there was almost unanimous agreement with the Commission's tentative conclusion that wireline companies should be allowed to participate in the SMR industry. However, the commenters were split on when common carriers should be allowed into the dispatch market, if they are allowed to provide dispatch at all.

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<sup>1/</sup> Notice of Proposed Rule Making, GN Docket No. 94-90, released August 11, 1994.

Nextel is the largest provider of traditional SMR services and Enhanced Specialized Mobile Radio Services ("ESMR") in the nation, and therefore has a significant interest in this proceeding. Established in 1987 as Fleet Call, Inc., Nextel has accumulated numerous SMR systems on which it provides traditional dispatch services. Nextel has also initiated commercial ESMR services -- an integrated service providing mobile telephony, dispatch and paging -- in California and plans to begin ESMR service in Chicago and New York in the upcoming months.

**II.**

**CONSISTENT WITH THE TRANSITION PERIOD PROVIDED RECLASSIFIED PROVIDERS BY CONGRESS, THE COMMISSION MUST CONTINUE TO PROHIBIT COMMON CARRIER DISPATCH OPERATIONS UNTIL AUGUST 10, 1996.**

Nextel does not disagree that common carriers should be permitted to provide dispatch services. However, due to the impact the entrance of common carriers will have on existing dispatch providers, the public interest would be best served by waiting until the end of the August 10, 1996 transition period provided to reclassified providers before allowing common carriers to offer dispatch.<sup>2/</sup> Although some commenters claim that the Commission must immediately terminate the dispatch prohibition,<sup>3/</sup> Congress

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<sup>2/</sup> See also Comments of American Mobile Telecommunications Association ("AMTA") at p. 11; Comments of Geotek Communications at p. 5.

<sup>3/</sup> Comments of McCaw Communications Corp. ("McCaw") at p. 3; Comments of Personal Communications Industry Association ("PCIA") at p. 1; Comments of Rural Cellular Association at p. 4; Comments of Airtouch Communications at 4.

did not *mandate* its elimination.<sup>4/</sup> Rather, the Commission was given the discretion to either terminate the prohibition or maintain it if necessary in light of current market conditions. Because the CMRS market is, at this time, merely a *potentially* competitive market, the immediate entry of common carriers into the dispatch market would be premature.

The immediate entrance of common carriers into the dispatch market would also be premature in light of the Commission's ongoing investigation into the status of cellular competition. In the Second Report and Order in GN Docket No. 93-252, the Commission stated that it would undertake a study of the status of the cellular market.<sup>5/</sup> This study is specifically aimed at determining the state of cellular competition for the purpose of forbearing from certain common carrier obligations and regulations; however, it will also be indicative of the ability of cellular carriers to act anti-competitively in setting the rates and terms of their dispatch services. Therefore, the Commission should not allow cellular entry into dispatch until it has completed its first review of the competitiveness of cellular carriers.

Moreover, reclassified SMR providers, many of which are small businesses providing primarily dispatch services, must be given an

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<sup>4/</sup> See Second Report and Order, GN Docket No. 93-252, 9 FCC Rcd 1411 (1994) at para. 103.

<sup>5/</sup> Second Report and Order at para. 138. Given the Commission's recent finding that virtually all CMRS services are potentially competitive, this investigation will of necessity consider the market power of cellular carriers for all CMRS customers. See Third Report and Order, GN Docket No. 93-252, released September 23, 1994, at para. 43.

opportunity to prepare for the entry of these previously ineligible cellular dispatch competitors.<sup>6/</sup> Many small operators will have to decide whether they can even remain in business as they compete with larger, entrenched, well-financed cellular operators -- particularly those in rural areas with excess capacity on which they can provide dispatch services.<sup>7/</sup> Those who choose to stay in business will have to make operational and marketing adjustments as they prepare to compete with common carrier dispatch providers. These are just the type of decisions and changes Congress intended to be made during the transition period it provided for reclassified providers.

Delaying common carrier entry into dispatch until after expiration of the transition period will not hinder competition prior to that time because there is no regulatory barrier to multiple dispatch providers in a market.<sup>8/</sup> If the Commission permits immediate entry, consumers may actually have fewer options since the smaller SMR providers may be driven out of business by the larger cellular carriers. Once the transition period has expired, and robust competition has begun to emerge in the CMRS

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<sup>6/</sup> Some smaller SMR operators will likely decide to discontinue all interconnected services so they will not be classified as Commercial Mobile Radio Service. When they discontinue these operations, their only remaining service will be dispatch, thus increasing their reliance on dispatch services. See Comments of AMTA at p. 12.

<sup>7/</sup> See Comments of SMR Won at p. 18 (common carrier dispatch will drive small operators out of business); see also Comments of AMTA at p. 11; Comments of Geotek Communications at p. 3.

<sup>8/</sup> Unlike the cellular duopoly, the SMR spectrum allocation permits numerous competitors in a given market.


industry, reclassified providers will have prepared themselves for the entrance of new -- and significant -- competition. At that time, entrance of common carrier dispatch providers will be a benefit to consumers. Subjecting these reclassified providers, particularly the small SMR carrier providing primarily dispatch service, to new dispatch competition prior to August 10, 1996 would be inconsistent with the intent of the transition period.

**III.  
CONCLUSION**

To ensure that reclassified providers retain the intended benefits of their Congressionally-mandated transition period to common carrier status, the Commission should not allow common carriers to provide the dispatch services until after August 10, 1996.

Respectfully submitted,

**NEXTEL COMMUNICATIONS, INC.**

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Date: October 20, 1994

## CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 20th day of October 1994, I caused a copy of the attached Reply Comments of Nextel Communications, Inc., to be served by hand delivery or first-class mail, postage prepaid to the following:

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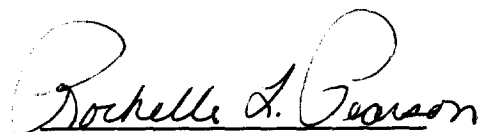
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